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acquire the interest of certain heirs in a tract of land, procured respondent to act as agent, but, the heirs demanding more money than he was authorized to pay, respondent took title in himself, risking a repudiation of his agency by complainants, in a suit wherein complainants sought to hold respondent as trustee, evidence held to sustain a finding that complainants, by refusing to pay respondent a reasonable remuneration as agreed, thereby released him from his trust.

2. Equity (§ 427 (1)*)—Dismissal without Disposition of Affirmative Defense Not Supported by Evidence Not Error.—Where respondent in a suit involving title to land set up an elder title in himself, it was not error, on dismissal of complainants' suit, to fail to take action respecting such title, where there was no evidence of its existence.

3. Evidence (§ 343 (7)*)—Copy of County Clerk's Record of Land Patent Held Inadmissible.—Code 1904, § 2367, referring to the recordation of new grants only, held not to authorize the recordation of an original land patent from the commonwealth in the office of the county clerk, so as to make a certified copy of such record admissible in evidence under section 3334, in lieu of the original.

4. Judgment (§ 418*)—Refusal to Take Bill as Confessed for Want of Answer Held Not Error.—Where a third amended bill was filed without leave and no process issued thereon, and the cause was brought to trial subject to objection to the bill, which objection was not passed on, and the substance of the bill was covered by the answer to the previous bills, it was not error not to take such bill as confessed for want of an answer.

Appeal from Circuit Court, Buchanan County.

Suit by John Matney and another against Richard Yates. From a decree of dismissal, complainants appeal. Affirmed.

RUDOLPH *v.* FARMERS' SUPPLY CO., Inc., et al.

Sept. 22, 1921.

[108 S. E. 638.]

1. Corporations (§ 428 (3)*)—Knowledge Gained by Salesman and Acting Secretary of Corporation in Casual Conversation Held Not Notice to Corporation.—Knowledge gained by a salesman and acting secretary of a corporation in a casual conversation with dealer in secondhand cars that such dealer had a certain car for sale which had been sold under a conditional contract by the corporation to the person who had sold it to the secondhand dealer was not notice

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

to or knowledge on the part of the corporation; such salesman and acting secretary not then acting within the sphere of his duty or attending to the business of the corporation.

2. Sales (§ 473 (2)*)—Sale by Vendee to Dealer with Shifting Stock Does Not Deprive Original Vendor of Lien.—Where plaintiff sold automobile, reserving title and docketing a memorandum of the contract in the clerk's office of the circuit court under Code 1919, § 5189, it could not be deprived of the benefit of the lien by the supervening act of the vendee in selling the same to a dealer, without the knowledge of the vendor, and thereby allowing the automobile to become a part of a shifting stock and to be sold to a bona fide purchaser for value.

3. Sales (§ 480 (1)*)—On Recovering Automobile in Hands of Innocent Purchaser Vendor Should Assign Notes to Such Purchaser.—Where vendee of automobile under conditional contract sold the same to a dealer in secondhand automobiles, who had a shifting stock, and it was purchased by defendant without knowledge of the lien, original vendor, in obtaining possession of the car to enforce its lien, should assign to defendant unpaid notes of the original purchaser, if defendant should pay the balance due the original vendor, or if the car should be sold for an amount sufficient to satisfy the lien.

Appeal from Law and Chancery Court of City of Roanoke.

Bill by the Farmers' Supply Company, Incorporated, against L. S. Rudolph and another. From a decree for complainant, the named defendant appeals. Affirmed, with directions.

Hall, Wingfield & Apperson, of Roanoke, for appellant.

Willis, Adams & Hunter, of Roanoke, for appellees.

LYNCH et al. v. CLINCH MOTOR CO.

Sept. 22, 1921.

[108 S. E. 641.]

1. Appeal and Error (§ 71 (3)*)—Order Refusing to Dissolve Injunction Appealable.—An appeal will lie from an order refusing to dissolve an injunction.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 444.]

2. Appeal and Error (§ 447*)—Appeal from Order Refusing to Dissolve Injunction Does Not Forestall Order at Final Hearing.—The granting of an appeal from an order refusing to dissolve an injunction does not forestall the order to be made at final hearing.

3. Appeal and Error (§ 863*)—Matters Not Finally Decided on Appeal from Order Refusing to Dissolve Injunction.—On an appeal

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